

Submission
No 3

**INQUIRY INTO LOCAL LAND SERVICES AMENDMENT
(CRITICALLY ENDANGERED ECOLOGICAL
COMMUNITIES) REGULATION 2019 AND LOCAL LAND
SERVICES AMENDMENT (ALLOWABLE ACTIVITIES)
REGULATION 2019**

Organisation: Humane Society International Inc
Date Received: 16 September 2019



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Ms Rebecca Main
Director, Legislative Council Regulation Committee
Parliament House
6 Macquarie Street
Sydney NSW 2000

By email: Regulation.Committee@parliament.nsw.gov.au

16 September 2019

Dear Ms Main,

Re: Submission into the Inquiry into the Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019 and Local Land Services Amendment (Allowable Activities) Regulation 2019

Humane Society International (HSI) appreciates this opportunity to comment on these Amendments to the Local Land Services (LLS) Regulations on behalf of our 70,000 Australian supporters. HSI has a long history of utilising environmental laws and a particular interest in the treatment of Threatened Ecological Communities as the nominator of 27 of those listed under the *Biodiversity Conservation Act 2016*.

HSI notes that the recent Audit Office report on managing native vegetation found that the clearing of native vegetation on rural land is not effectively regulated and managed, that the processes supporting the regulatory framework are weak, and that there is no evidence-based assurance that clearing of native vegetation is carried out in accordance with approvals. Given these findings and increases in rates of land clearing in NSW since the commencement of the *Biodiversity Conservation Act 2016* and *Local Land Services Amendment Act 2016*, HSI is highly concerned at these regulatory amendments that facilitate further habitat destruction.

LLS Amendment (Critically Endangered Ecological Communities) Regulation 2019
This Regulation needs to be considered in the broader context of the recent Critically Endangered listings of *Monaro Tableland Cool Temperate Grassy Woodland in the South Eastern Highlands Bioregion* and *Werriwa Tablelands Cool Temperate Grassy Woodland in the South Eastern Highlands and South East Corner Bioregions* as Threatened Ecological Communities under the *Biodiversity Conservation Act 2016*, as well as changes to how they are identified through the *Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019* made soon after their recognition.

The Threatened Ecological Communities were gazetted as Critically Endangered on 28 June 2019, and on 8 July 2019 the Government introduced the *Land Management (Native Vegetation) Code Amendment (Monaro and Werriwa Grassy Woodland Critically Endangered Ecological Communities) 2019* which amended the *Land Management (Native Vegetation) Code 2018* to allow Local Land Services to determine whether remnants of the CEECs form a functioning ecological community.

While HSI understands the rationale of these amendments, we do not support them as they go against the intent of the legislation to offer strong protection for the most threatened habitats. Critically Endangered declarations should encourage stronger protection and investment in stewardship, not amendments that allow further losses.

We're aware of the complexities in managing these Critically Endangered Ecological Communities in agricultural landscapes, but that the Government has seen it as necessary to patch up how the law treats such habitats at the first time of asking demonstrates a willingness to get out of the way of the strong protections required rather than address the matter through increased regulation coupled with investment.

It is particularly concerning to see the language used by Minister for Agriculture Adam Marshall, who is quoted as saying that the amendment to the Native Vegetation Code "*is about maintaining the status quo and ensuring primary producers who have farmed in the region for generations can continue to do so while responsibly managing the land.*" The status quo is what has led to the Critically Endangered statuses of these Threatened Ecological Communities, and their heightened status should be matched by changes to their management that alter the business as usual of past decades.

LLS Amendment (Allowable Activities) Regulation 2019

While HSI does not object to the concept of allowable activities that are genuinely low-impact we have concerns about expanding the list of allowable activities coupled with the aforementioned findings of the Audit Office, as well as the unknown cumulative impacts of clearing under these exemptions that are likely to be significant when applied to Threatened Ecological Communities listed as Critically Endangered. We note that there are no mechanisms in the Framework to monitor and record the amount of clearing that is undertaken as allowable activities, and it is difficult to ensure that limitations on clearing for allowable activities are being complied with.

The Allowable Activities Regulation expands the range of activities that can now be undertaken on category 2-vulnerable regulated land and category 2-sensitive regulated land without notification, certification or approval. These activities include collecting firewood, maintaining telecommunications infrastructure and clearing planted native vegetation. Given that land is included in category 2-vulnerable regulated land and category 2-sensitive regulated land for reason of it being environmentally sensitive land, allowable activities within these areas should be strictly limited. In HSI's view, environmental assessment and approval should be required before any clearing can occur on category 2-vulnerable regulated land and category 2-sensitive regulated land rather than activities being permitted as allowable activities.

HSI understands that the purpose of the Amendment Regulation pertaining to proximity area for coastal wetlands is to clarify that the 'proximity area for coastal wetlands' and 'proximity area for littoral rainforest' (as identified in *State Environmental Planning Policy (Coastal Management) 2018*) are to be designated category 2-regulated land rather than category 2-sensitive regulated land. The effect is weaker restrictions on clearing in coastal proximity areas, which undermines these proximity areas being considered sensitive and warranting additional environmental protection.

It is HSI's view that the Allowable Activities Regulation weakens environmental protections and will therefore facilitate increased land clearing by expanding the scope of allowable activities under the *Local Land Services Act 2013*, including on category 2-vulnerable regulated land and category 2-sensitive regulated land, as well as treating proximity area for coastal wetlands and proximity area for littoral rainforest as general category 2-regulated land rather than category 2-sensitive regulated land. HSI therefore recommends that the Allowable Activities Regulation be disallowed.

If you require any further information regarding this submission, please don't hesitate to contact me on _____ or at _____

Yours sincerely,

Evan Quartermain
Head of Programs